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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,406	04/15/2004	Anton Franz Josef Fliri	PC9868D	9380

23913 7590 07/28/2005

PFIZER INC  
150 EAST 42ND STREET  
5TH FLOOR - STOP 49  
NEW YORK, NY 10017-5612

EXAMINER

BERNHARDT, EMILY B

ART UNIT	PAPER NUMBER
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1624

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/825,406

Applicant(s)

FLIRI ET AL.

Examiner

Emily Bernhardt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 June 2005.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 28-36 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 28-36 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

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A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/30/05 has been entered.

Claim 34 and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1. In claim 34 it is noted that R7 is recited twice with a differing scope which renders scope unclear. From a reading of the specification it appears R9 was intended for the 2<sup>nd</sup> occurrence.
2. In the claim 35 is not the 2<sup>nd</sup> last species a duplicate of the 1<sup>st</sup> species recited?

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 28-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kulagowski (WO'105). While applicants have presented claims of a narrower scope than in previous actions, the heteroaryl rings now present as T-Y-Z ring are also taught by the WO publication. Note page 7

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which includes pyridyl, pyrimidyl and pyridazinyl, etc. Also the reference teaches substitution on the indole ring with groups such as halo and alkoxy as described on p.9. Closest species are egs. 4,5 and 7 and species on p.12, line 31 which all are phenyl-substituted in place of the instant heteroaryls now claimed. Substitution on the indole ring is also taught as discussed above. Thus it would have been obvious to one skilled in the art at the time the instant invention was made to modify the species pointed out above by changing the ring and optionally further substituting the indole ring in view of the express equivalency teachings outlined above.

US' 142 is made of record . While drawn to compounds having a similar backbone requires certain functional groups at "R7" which are not within the instant scope. Commonly assigned US' 502 is also being cited as it describes (but does not claim) instant compounds for various uses associated with D4 receptor binding. It is not a competent reference in view of its later effective filing date.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emily Bernhardt whose telephone number is 571-272-0664.

If attempts to reach the examiner by telephone are unsuccessful, the acting supervisor for AU 1624, James O. Wilson can be reached at 571-272-

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0661. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.



Emily Bernhardt

Primary Examiner

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